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EXAMINER

SNAPP, SANDRA S

ART UNIT PAPER NUMBER

2915

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/737,697

Applicant(s)

SLAIGHT ET AL.

Examiner

Sandra Snapp

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10-07-04 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

Response to Amendment

This Office Action is in response to an Amendment filed 10-07-04. Currently, claims 1-32 are pending in the application.

Drawings

The drawings objection has been successfully overcome and is herein withdrawn.

Specification

The disclosure objection has been successfully overcome and is herein withdrawn.

Claim Rejections - 35 USC § 112

The rejection of claims 1-10, 12, 20 and 24 under 35 U.S.C. 112, second paragraph, has been successfully overcome and is herein withdrawn. The Examiner apologizes for the inadvertent oversight in the previous Office Action and for her not clearly stating the specifics of the rejection. However, Applicant's amended claim language has overcome the rejections and his attention to this matter is appreciated.

Claim Rejections - 35 USC § 101

The rejection of claims 1-10 under 35 U.S.C. 101 has been successfully overcome with the Amendment of 10-07-04 and is herein withdrawn.

Claim Rejections - 35 USC § 102

Claims 1-3, 6-12, 14 and 16-32 remain and are finally rejected under 35 U.S.C. 102(b) as being anticipated by the Gindlesperger patent (US 6,397,197 B1).

The Gindlesperger reference discloses an electronic bidding system, comprising:

Means for enabling each of a plurality of vendors to submit bids on at least two parameters associated with a product (col. 7, line 60 through col. 8, line 2), means for calculating the total cost of the product to a purchaser for each vendor in response to the vendors bids, the total cost taking into account the at least two parameters associated with the product (col. 5, lines 28-35), and means for outputting each of the vendors bids and the total cost of the product to the purchaser (col. 7, line 60 through col. 8, line 2) (claim 1);

The bids includes a plurality of parameters for the product and the total cost calculating means determines the total cost of the product to the purchaser using a pre-determined total cost formula (col. 7, line 60 through col. 8, line 2) (claim 2);

The total cost formula includes at least one pre-defined constant (col. 7, line 60 through col. 8, line 2) (claim 3);

Means for enabling communication with the vendors during the bidding (col. 5, lines 11-27) (claim 6);

The communication means enables messages to be sent to the vendors to encourage further bidding by the vendors (col. 5, lines 11-27) (claim 7);

The communication means enables messages to be sent to the vendors regarding the status of the bidding, ending time for the bidding and extensions of the bidding (col. 5, lines 28-35) (claim 8);

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Means for calculating the amount of savings for the purchaser and means for communicating the savings to the purchaser (col. 3, lines 30-37) (claim 9); and

Means for setting up the bidding on the product (col. 4, line 55 through col. 5, line 10) (claim 10).

The Gindlesperger reference discloses an electronic auction system, comprising:

A computer readable storage medium (inherent in computer system having storage means such as a database, col. 5, lines 10-14), and software (inherent in a computer system) stored on the computer readable storage medium and operable to receive bids from a plurality of vendors, each bid comprising a plurality of parameters associated with at least one product, calculate the total cost of the at least one product to a purchaser for each vendor in response to the vendors' bids, the total cost taking into account the plurality of parameters associated with the at least one product, and output each of the vendors bids and the total cost of the product to the purchaser (col. 7, line 60 through col. 8, line 2 and col. 5, lines 28-35) (claim 11);

The at least two parameters are selected from the group consisting of price, discount, delivery, installation, training, maintenance, the risks covered by warranty, and length of warranty (col. 2, lines 24-37) (claim 12);

The software is further operable to send data to the vendors during the bidding to stimulate competitive bidding (col. 5, lines 11-27) (claim 14);

The total cost calculated for each vendor uses a single formula for all vendors (col. 7, line 60 through col. 8, line 2) (claim 16);

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The total cost calculated for each vendor uses a plurality of formulas, each vendor having one of the plurality of formulas associated with it (col. 7, line 60 through col. 8, line 2) (claim 17);

The plurality of parameters is further associated with a plurality of products (col. 6, line 65 through col. 7, line 16) (claim 18);

The auction results take into account vendors bids on a market basket of prices (col. 6, lines 65 through col. 7, line 16) (claim 19);

Bids from vendors are received through the Internet (col. 7, lines 17-22) (claim 20);

The software is further operable to provide a vendor with data about the status of an auction while the auction is in progress (col. 5, lines 28-35) (claim 21);

The software is further operable to provide a purchaser with data about the status of an auction while the auction is in progress (col. 8, lines 7-9) (claim 22);

The software is further operable to control which vendors are allowed to participate in an auction (col. 5, lines 11-24) (claim 23); and

The software is further operable to allow a total cost formula to be defined for each product in an auction (col. 7, line 60 through col. 8, line 2) (claim 24).

The Gindlesperger reference disclose a method of conducting an on-line auction comprising:

Receiving bids from a plurality of vendors (col. 5, lines 18-23), each bid comprising a plurality of parameters associated with at least one product, calculating, using a computer, the total cost of the at least one product to a purchaser for each vendor in response to the vendors'

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bids, the total cost taking into account the plurality of parameters associated with the at least one product, and outputting, using the computer, each of the vendors bids and the total cost of the product to the purchaser (col. 7, line 60 through col. 8, line 2) (claim 25);

Defining a plurality of parameters for a category of products (col. 7, line 60 through col. 8, line 2), and defining a total cost formula for the category of products in response to the plurality of parameters (col. 7, line 60 through col. 8, line 2) (claim 26);

The total cost formula includes at least one constant associated with at least one parameter (col. 7, line 60 through col. 8, line 2) (claim 27);

The plurality of parameters includes prices and non-price parameters (col. 7, line 60 through col. 8, line 2 and col. 2, lines 24-37) (claim 28);

The price parameters include at least one of a base price, volume, discounts, rebates, life cycles discounts, utilization charges, maintenance charges and administration charges (col. 7, line 60 through col. 8, line 2 and col. 2, lines 24-37) (claim 29);

The non-price parameters include at least one of a delivery timing, national service coverage, minimum quality levels, employee skill levels, a dedicated account management team, special reporting requirements, online ordering, warranty and length of contract (col. 2, lines 24-37) (claim 30);

Defining a plurality of parameters comprises defining at least two sub-categories for the category of products, and defining at least two parameters for each subcategory (col. 1, lines 27-67) (claim 31); and

Communicating the best vendor's bid to the other vendors to encourage competitive bidding (col. 5, lines 28-35) (claim 32).

Claim Rejections - 35 USC § 103

Claims 4, 5, 13 and 15 remain and are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Gindlesperger patent as applied to claims 1, 11 and 25 above, and further in view of the Adams patent (US 3,573,747).

The Gindlesperger patent discloses all the elements of the present invention, as stated above, except for:

Means for communicating a vendor bid having the best total cost for the product to the vendors without revealing the identification of the vendor with the best total cost to encourage competitive bidding by the other vendors (claim 4);

Means for enabling the purchaser to make at least one adjustment corresponding to at least one of the vendor bids which is used by the calculating means to determine the total cost of the product to the purchaser (claim 5);

The software is further operable to send data, comprising a vendor bid having the best total cost for the product, to the vendors during the auction without revealing the identification of the vendor with the best total cost (claim 13); and

The software is further operable to enable the purchaser to make at least one adjustment corresponding to at least one vendor bid which is used by the central auction management system to calculate the total cost of the product to the purchaser (claim 15).

The Adams patent teaches:

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Means for communicating a vendor bid, and software operable to send data having the best total cost for the product to the vendors without revealing the identification of the vendor with the best total cost to encourage competitive bidding by the other vendors (A-Abstract) (claims 4 and 13).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Gindlesperger system to include the teachings of the Adams patent so as to provide the vendors keep the vendors informed of the status of the process, while ensuring a secure and fair environment.

The Adams patent also teaches:

Means, and software, for enabling the purchaser to make at least one adjustment corresponding to at least one of the vendor bids which is used by the calculating means to determine the total cost of the product to the purchaser (A-col. 10, lines 48-53) (claims 5 and 15).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Gindlesperger system to include the teachings of the Adams patent so as to allow the purchaser to make modifications in case there are discrepancies and/or errors, and to allow the transactions in the system to be modified so as to ensure all the available quantities are bought and sold.

Response to Arguments

Applicant's arguments filed 10-07-04 have been fully considered but they are not persuasive. The Applicant asserts that the Gindlesperger patent does not disclose, teach or show

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a “means for enabling each of a plurality of vendors to submit electronic vendor bids on at least two parameters associated with a product.” However, the Examiner disagrees and refers the Applicant to col. 7, line 60 through col. 8, line 2 of the Gindlesperger patent wherein it states, “the vendor’s invitation for bid specifies the print information . . .so that each vendor will understand clearly all product, delivery and other requirements for the print information or service that is being place out for *bids* by the buyer.” The Examiner interprets this passage as identifying that multiple bids can be given, and such bids are determined based on the product, delivery and other requirements. As such, the bids are submitted based on at least two parameter associated with a product, as presently claimed.

Applicant also states that the Gindlesperger patent does not disclose, teach, or suggest a “means for calculating a total cost of the product to a purchaser for each vendor in response to the vendors bids, the total cost taking into account the at least two parameters associated with the product.” The Examiner interprets Gindlesperger as disclosing such calculating means as disclosed in col. 7, line 65 through col. 8, line 2 wherein it states, “enabling each vendor to prepare a more precise calculation of its responding bid B.”

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sandra Snapp whose telephone number is 703-305-6940. The examiner can normally be reached on Mon.-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 703-308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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